

OFFICE OF THE ATTORNEY GENERAL

83-DD187



CHARLES A. GRADDICK
ATTORNEY GENERAL
STATE OF ALABAMA
FEB 11 1983

JAMES R. SOLOMON, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM M. BEKURS, JR.
EXECUTIVE ASSISTANT

WALTER S. TURNER
CHIEF ASSISTANT ATTORNEY GENERAL

JANIE NOBLES
ADMINISTRATIVE ASSISTANT

ADMINISTRATIVE BUILDING
64 NORTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (205) 834-5150

Honorable Roger D. Dutton
State Representative
Route 2, Box 32
Trinity, AL 35673

Education - Teachers - Legislators
- Compensation

1. Teacher-legislator may have cost of substitute deducted from his salary.
2. Legislator may not vote on matter in which he has a personal or private interest.

Dear Representative Dutton:

We have received your request for an Attorney General's opinion in which you pose two questions:

1. May a county board of education deduct from a teacher's salary its cost of providing a substitute teacher while that teacher, who is a member of the House of Representatives, is away on legislative duties?
2. May a teacher in the public school system who serves in the legislature vote on all matters coming before the legislature?

This office has consistently held that a teacher-legislator is entitled to receive his teaching salary while serving in the legislature, but may, at the option of his employer, have that salary reduced by the cost to the employer of providing a

Honorable Roger D. Dutton
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substitute teacher. See, inter alia, Opinion to Honorable Jack Lauderdale, under date of November 12, 1982 (a copy of which is enclosed for your information).

In response to your second question, Constitution of Alabama 1901, § 82 provides that:

"A member of the legislature who has a personal or private interest in any measure or bill proposed or pending before the legislature, shall disclose the fact to the house of which he is a member, and shall not vote thereon."

The determination of whether a legislator has a personal or private interest in a given situation must be made based on all the circumstances of that situation.

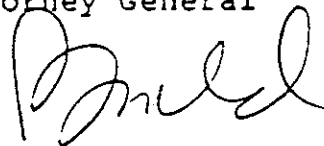
Additionally, the State Ethics Law may contain provisions which would prevent a teacher-legislator from voting on some matters before the legislature. As you may know, the Attorney General declines to answer questions calling for his interpretation or application of the State Ethics Law, deferring instead to the State Ethics Commission. I suggest that you address the second question to the State Ethics Commission, 100 Commerce St., Suite 500, Montgomery, Alabama 36104.

I hope this is helpful. If I or this office can be of further assistance, please call on us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

By:



RONALD C. FOREHAND
Assistant Attorney General

CAG/RCF/pm

Enclosure

83-00073

OFFICE OF THE ATTORNEY GENERAL



CHARLES A. GRADDICK

ATTORNEY GENERAL

STATE OF ALABAMA

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JAMES R. SOLOMON, JR.
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MONTGOMERY, ALABAMA 36130
AREA (205) 834-5150

Hon. Jack Lauderdale
Route 1, Box 238
Hamilton, Alabama 35570

Trade schools and junior
colleges - Teachers -
Legislators - Compensation

Teacher-legislators may have
cost of substitute deducted from
his salary.

Dear Mr. Lauderdale:

This letter is in response to your recent request for an opinion from our office. Your inquiry concerned whether a trade school teacher who is also serving as a legislator may have the cost of a substitute teacher deducted from his teaching salary, and more specifically whether this practice is within the authority of the president of the school.

Your answer is affirmative. Our office has consistently held that teachers may serve in the legislature and may continue to receive their salary. In an opinion to Dr. Paul Hubbert under date of November 21, 1974, we expressed the opinion that local boards of education may deduct from the salary of the teacher-legislator that amount which covers the cost of a substitute for days of teaching missed to attend legislative sessions. Your inquiry is similar and it is our opinion that the reasoning and conclusion reached would be the same for technical colleges. It would be within the authority of the president of the school to authorize this deduction.

We have consistently held in our opinions that the teacher-legislator is entitled to his salary minus the substitute deduction.

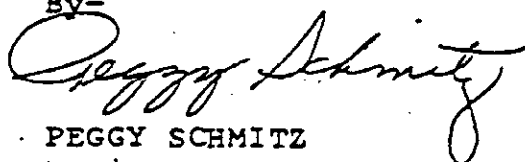
Hon. Jack Lauderdale
Page Two

We hope this information will assist you. If we may be of further service, please contact us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

By-

A handwritten signature in cursive script, appearing to read "Peggy Schmitz".

PEGGY SCHMITZ
Assistant Attorney General

PS:bd
